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**S.C. LEGISLATIVE COUNCIL**

To publish proposed regulations the following verification must be signed and returned to the Clerk of the State Register

VERIFICATION

This certifies that I have reviewed the text of this document and determined that, with the stricken text deleted and the new text incorporated, the text reads as the agency intends it to read.

July 15, 2010 Jacely Boyd  
Date Reviewing Officer

Document No. 4138

**PUBLIC SERVICE COMMISSION**

**CHAPTER 103**

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2008)

103-607. Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms

**Preamble:**

The Public Service Commission of South Carolina (Commission) seeks to amend Regulation 103-607 by applying the provisions of this Regulation to all telephone utilities who provide retail residential local exchange services. With this modification, Regulation 103-607 should be amended to delete any reference to prepaid local exchange services and advance payments. Additionally, Regulation 103-607 will be amended to provide that the Office of Regulatory Staff should receive a copy of any bond or other security mechanism that is filed with the Commission. Therefore, this amended Regulation will apply to all telephone utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in South Carolina.

The Notice of Drafting regarding these regulations was published on May 28, 2010 in the *State Register*.

**Section-by-Section Discussion**

103-607. This section is being amended to delete any reference to prepaid local exchange services and advance payments. Also, this regulation is being amended to provide that the Office of Regulatory Staff should receive a copy of any bond or other security mechanism that is filed with the Commission.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-400-C. To be considered, comments must be received no later than 4:45 p.m. on September 1, 2010. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Tuesday, October 26, 2010, at 10:30 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

**Preliminary Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

**DESCRIPTION OF REGULATION:**

103-607. Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms.

Purpose: The language of Regulation 103-607 currently requires certain telephone utilities who provide prepaid local exchange services to file a bond or other security mechanism with the commission and the ORS. The proposed revisions to Regulation 103-607 broaden the scope of Regulation 103-607 by expanding the application of this Regulation to all telephone utilities who provide retail residential local exchange services and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. The proposed amendments also delete references to advance payments and prepaid payments and require bonds or other security mechanisms to be filed with the commission and a copy provided to the ORS.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2008).

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The proposed amendments to Regulation 103-607 are needed and are beneficial to the public because telephone utilities who meet certain criteria will have to post a security mechanism with the commission. These amendments are beneficial to the public because if a telephone utility ceases providing service to customers, the commission may order all or part of any bond or security mechanism forfeited. Hence, this process allows for the customer to be made whole if a customer pays for service and does not receive such service from the telephone utility.

**DETERMINATION OF COSTS AND BENEFITS:**

Although costs related to the proposed changes to the Commission's regulations are minimal, the benefits include the amendment of a regulation that provides protection for customers who pay for service they do not receive.

**UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

None.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

**Statement of Rationale:**

The purpose of amending Regulation 103-607 is to broaden the scope of application of this regulation to all utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. There was no scientific or technical basis relied upon in the development of this regulation.

**Text:**

**103-607. Bonds or Other Security Mechanisms.**

This regulation applies to telephone utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. The commission may waive this requirement upon petition by the telephone utility if the telephone utility provides evidence of financial stability as deemed appropriate by the commission. This regulation does not apply to Commercial Mobile Radio Services.

The commission shall determine the type and the amount of bond or other security mechanism to be filed by the carrier with the commission and the ORS. The commission may order the carrier to file a performance bond or post an irrevocable letter of credit or certificate of deposit. In determining the amount of the performance bond, irrevocable letter of credit, or certificate of deposit, the commission may use, at a minimum, any commercially reasonable, acceptable method, including the following criteria: number of customers, retail price for service, and financial resources of the carrier.

a. Performance Bond. Performance bonds must be issued by an A-grade insurer acceptable to the commission and must be posted with the commission and a copy provided to the ORS. However, the amount of the bond shall be no less than \$100,000. An updated bond shall be filed with the commission and a copy provided to the ORS annually.

b. Irrevocable Letter of Credit. An irrevocable letter of credit shall be issued by a financial institution acceptable to the commission. The amount of the irrevocable letter of credit shall be determined by the commission; however, the amount of the letter of credit shall be no less than \$100,000. An updated irrevocable letter of credit shall be filed with the commission and a copy provided to the ORS annually.

c. Certificate of Deposit. The certificate of deposit shall be issued by a financial institution acceptable to the commission and shall be no less than \$50,000. An updated certificate of deposit shall be filed with the commission and a copy provided to the ORS annually.

**Forfeiture of Bond or Other Security Mechanism**

The commission, after notice and hearing, may order all or part of any bond or other security forfeited upon finding that the telephone utility has abandoned service to customers.